IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION LODGING NO.865 OF 2006

Madhav Keshav Kulkarni.....Petitioner

Vs.

Saraswat Co-operative Bank Ltd. & Ors.

Mr. O.J.Menezes with Mr. P.P. Prabhu, for the Petitioner

Mr. Y.R. Naik, for the Respondent NO.1.

Mrs. N.V. Masurkar with Mr. N.D. Sharma for Respondent Nos. 14 to 16.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA JJ.
DATE : 17th April,2006

P.C.:

. The present petition has been filed by the petitioner against the Respondent NO.1, a Multi State Co-operative Bank praying therein for disqualification of the existing Board of Directors and further to direct holding of fresh elections. The petition is based on a considered judgment of a Division Bench of this Court in Writ Petition No.3371 of 2003 decided on August 11, 2003 between the Bharat Co-operative Bank (Mumbai) Ltd., & Ors. vs. Union of India & Ors., The learned Division Bench has taken a view that in a case where the committee had taken office under the old Act it does not entitle the members of the managing committee to claim a term of 5 years fixed under Section 45(3) of the new Act.

2. It appears that the respondent o.1 and its Directors had filed a Writ Petition before the Delhi High Court in Writ Petition (Civil) No.6355 of 2004

in which CM No.3136 of 2006 was taken out which was disposed of on March 17, 2006. By that order Respondent No.1 has been permitted to hold elections after 14th July, 2006 which is a period of more than 3 years. Based on that the Writ Petition came to be disposed of.

3. We are not aware whether the judgment of the Division Bench of this Court was brought to the attention of the learned Bench of the Delhi High Court which decided the C.A. It is pointed out on behalf of the Respondent No.1 by the learned Counsel that the judgment of this Court was brought to the attention of the learned Division Bench of the Delhi High Court. However, considering the fact that the relief now sought for will be inconsistent with the relief granted in the C.A. in the Writ Petition which has been disposed of before the Delhi High Court, it will be proper for the petitioner to take such steps which he is advised to move against the said order. The petitioner was not a party to the said petition. With the above observation petition stands disposed of.

4. If the Central Registrar has not commenced the process of elections that process should not be initiated for a period of three weeks from today.

(F.I.REBELLO, J.)

(ANOOP V. MOHTA, J.)